

Agenda Item: 13-10G
Meeting Dates: October 13 and 14, 2004

**CONSIDERATION OF A RESOLUTION RECOMMENDING TO THE
DEPARTMENT OF HEALTH SERVICES THAT IT PROCEED WITH ITS
2004 PROPOSITION 50 DRINKING WATER CONTAMINANT REDUCTION GRANT
PROPOSAL SOLICITATION PACKAGES, CONSISTENT WITH THE STATED PRIORITIES,
SOLICITATION AND EVALUATION CRITERIA AND PROCESS, AND SCHEDULE**

Summary: This resolution would recommend to the Department of Health Services that it proceed with its Proposal Solicitation Packages for drinking water contaminant reduction grant proposals, consistent with the stated priorities, selection process, and schedule. (These grant programs will be implemented through an interagency agreement with the Department of Water Resources, who has primary authority for Chapter 6 grant programs.)

Recommended Action: The California Bay-Delta Authority adopt Resolution 04-10-06, as it is anticipated that a significant portion of the funded projects will assist in meeting CALFED Program drinking water quality goals and objectives.

Background

Proposition 50, the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, (Water Code §79500, et seq.), was passed by the voters of California in the general election of November 5, 2002.

Through an interagency agreement with the Department of Water Resources (DWR), the Department of Health Services (DHS) is responsible for implementing two subsections of Water Code §79520:

- Subsection (b): Pilot and demonstration projects for treatment or removal of contaminants; and
- Subsection (c): Drinking water disinfecting projects using ultraviolet technology and ozone treatment.

Some aspects of Proposition 50 were clarified by Assembly Bill 1747 (Chapter 240, Statutes of 2003), which was signed into law by the Governor on August 13, 2003, taking effect immediately. AB 1747 includes requirements that apply to DHS implementation of Proposition 50.

Grant Program Descriptions:

Chapter 6(b): Pilot and Demonstration Projects (\$25 million)

These funds may be used for pilot and demonstration projects for treatment or removal from drinking water of the following contaminants:

- (1) Petroleum products, such as MTBE and BTEX.
- (2) N-Nitrosodimethylamine (NDMA).
- (3) Perchlorate.
- (4) Radionuclides, such as radon, uranium, and radium.
- (5) Pesticides and herbicides.
- (6) Heavy metals, such as arsenic, mercury, and chromium.
- (7) Pharmaceuticals and endocrine disrupters.

Chapter 6(c): Drinking water disinfecting projects using ultraviolet technology and ozone treatment (\$25 million)

These funds may be used for ultraviolet light and ozone disinfection projects to treat drinking water.

Status of Criteria Development

To address the requirements of Proposition 50 and AB 1747, DHS drafted criteria for the ranking of projects. The draft criteria for Chapter 6 were posted on the DHS website in October 2003. DHS presented the draft criteria to the Bay-Delta Public Advisory Committee's (BDPAC) Drinking Water Subcommittee in October 2003. DHS also mailed the draft criteria to public water systems. DHS invited public comments to be submitted by January 20, 2004. DHS then revised the draft criteria in response to submitted comments. The revised draft criteria were posted on the DHS website in late January 2004 at <http://www.dhs.ca.gov/ps/ddwem/Prop50/default.htm>.

DHS held two public meetings, as required by statute, to present and receive input on the revised draft criteria. These meetings were held February 24 and 26, 2004 in Sacramento and Los Angeles respectively. DHS invited public comments to be submitted until March 4, 2004.

These comments were considered in developing the final criteria. The final criteria for Chapter 6 have been approved by DWR.

Significant Changes in Latest Version of Criteria

Criteria were established for determining projects eligible for funds set aside for disadvantaged communities. Criteria were established for awarding bonus points to projects serving disadvantaged communities based on median household income and physical consolidation.

Other Comments

Water systems will be asked to specify on the pre-application forms if the proposed project is CALFED related. Criteria to make this determination were developed by California-Bay Delta Authority staff and include: (1) a focus on addressing a CALFED priority drinking water contaminant; and (2) a primary project purpose of improving drinking water quality for California residents whose water supply originates in the Sacramento-San Joaquin Delta or the Delta watershed; including watersheds of upstream reservoirs, the California Aqueduct or similar conveyances; or in other areas of the State that supply water to systems connected to the Delta.

Proposal Solicitation Package (PSP) Priorities

The goals of the Proposition 50 water security and safe drinking water grant programs are to address the highest risk infrastructure and treatment technology development needs. DHS has applied the same priority structure to the grant criteria as for setting safe drinking water standards. In general, the highest health risk is addressed first (e.g., pathogen contamination = acute health risk), with chronic health risks considered a lower priority. Priority will also be given to larger populations that are served by a proposed project. Disadvantaged communities are also a priority for funding for UV and ozone disinfection projects as 25 percent of the grant funds in Chapter 6(c) are set aside specifically for these applicants.

Proposal Selection Process and Anticipated Schedule

1. Pre-applications are received by DHS and initially reviewed by DWR (to determine qualification as disadvantaged community) and Authority staff (to determine if project is CALFED related) <http://www.dhs.ca.gov/ps/ddwem/Prop50/default.htm>.
December 1, 2004
2. Proposals are reviewed by DHS technical staff, other agencies and science panels as appropriate.
3. Reviewers submit preliminary ratings, based on criteria established in the PSP.
4. The reviewers convene to discuss proposals, receive any additional clarification, and revise their scores, as desired.
5. Based on scores, DHS prepares draft Project Priority Lists for each grant program: disadvantaged communities (Chapter 6 (c)) and general projects (both grant programs). Projects recommended for funding are identified on all lists.
6. Draft Project Priority Lists are reviewed by stakeholder committee, BDPAC, Authority, and the public through a workshop during the public comment period.
April 2005
7. Final funding recommendations are presented via DHS management to DWR management.
8. DWR makes the final funding decision. **May 2005**
9. Projects selected for funding will be posted on the DHS website at www.dhs.ca.gov.

10. Selected projects will be invited to submit full applications. **June 2005**
11. Detailed applications due to DHS. **June 2005 – March 2006**
12. DHS, DWR and Authority staff will conduct detailed review and establish final conditions for funding, including CEQA.
13. Contract negotiations begin.
14. Final contracts are executed. **October 2005 – June 2006**
15. Projects begin. **October 2005 – June 2006**

The release of the PSP is subject to the availability of funds and final approval by DWR.

Fiscal Information

Funding Source: Water Code, Chapter 6 Section 79545 of Proposition 50
Term: First Year: July 1, 2004 to June 30, 2005
Total Amount: \$11,500,000

List of Attachments

Attachment 1 - Ranking Criteria (Bound Separately). DHS Grant Programs available at <http://www.dhs.ca.gov/ps/ddwem/Prop50/default.htm>
Resolution 04-10-06

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Revisions 09-16-2004

Department of Water Resources and Department of Health Services

Ranking Criteria for Projects

**Proposition 50: Water Security, Clean Drinking Water,
Coastal and Beach Protection Act of 2002 (Water Code § 79500 et seq.)**

Chapter 6 Contaminant and Salt Removal Technologies

(b) Pilot and Demonstration Projects for Contaminant Removal

(c) Ultraviolet Light and Ozone Disinfection Projects

Background

Proposition 50, The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, (Water Code §79500, et seq.) was approved by the California electorate on November 5, 2002.

The Department of Water Resources (DWR) is charged with implementing Water Code §79545 (Chapter 6 – Contaminant and Salt Removal Technologies). TDWR, through an interagency agreement, with the Department of Health Services (DHS), will provide support to DWR on has delegated the technical aspects of implementing Water Code §79545 (b) and (c). These subsections address drinking water contaminant removal and disinfection technologies, respectively.

Some aspects of Chapter 6 of Proposition 50 were subsequently clarified by Assembly Bill (AB) 1747 and Senate Bill 1049. AB 1747 includes the following requirements:

- Water Code §79505.6 requires the development of funding guidelines by March 15, 2004, after solicitation of public comments and two public meetings. That same section exempts disadvantaged communities from matching fund requirements of Chapter 6(b) and (c).
- Water Code §79506.7 requires technical assistance to be provided to disadvantaged communities.
- Water Code § 79547 requires grants to be awarded on a statewide competitive basis.

Development of Project Ranking Criteria

To address the technical aspects of the requirements of Proposition 50, Chapter 6(b) and (c) and AB 1747, DHS drafted project ranking criteria and general criteria which were posted on the DHS website in January 2004.

DHS invited public comment through January 20, 2004, and revised the draft criteria in response to comments received.

DHS held two public meetings to present and receive input on the revised draft criteria. These public meetings were held on February 24, 2004 in Sacramento and on February 26 in Los Angeles. DHS invited public comments through March 4, 2004. Those comments were considered in developing the final criteria. DHS developed these criteria for DWR to submit to the legislature, as required by AB 1747.

The following Project Ranking Criteria incorporate comments from the two public meetings.

Project Ranking Criteria

Process

1. DHS reserves the right to modify these criteria, in consultation with DWR with and appropriate stakeholder groups, and subject to approval of DWR, as necessary to effectively implement this program. The criteria, in effect when an applicant is **invited** to submit a full application, will continue to apply to that project.
2. After the final criteria are available, invitations will be sent to all public water systems to submit a Pre-Application for each project. The Pre-Applications are to identify the grant program(s) for which the applicant is applying. The invitations to apply will include a deadline for submission of Pre-Applications. DHS and DWR reserves the right to establish such deadlines for each round of invitation and for each type of Pre-Application. Pre-Applications not timely submitted will not be considered or ranked.
3. Based on the completed Pre-Applications received, the projects will be ranked according to the criteria for each separate grant program. A separate ranking list will be established for each grant program.
4. The draft ranking lists will be subject to review by a stakeholders' group and then released for public comment before they are made final. Once the lists are in final form, grant application forms will be sent to the applicants whose projects rank highest (the top of the list) down through those projects representing the total amount of available funding. The grant application forms will include a deadline for submission of a complete application. DHS and DWR reserves the right to establish such deadlines for each round of applications and for each type of application. Applications not timely completed and submitted will not be considered for funding.
5. After an application is deemed complete, DWR will issue a Letter of Commitment to the applicant with a list of conditions to be met before issuance of a funding agreement. Commitment letters will include a deadline for meeting all such conditions. These conditions include completion of California Environmental Quality Act (CEQA) compliance and submittal of final project plans and specifications. Upon the applicant's timely compliance with all conditions, the project will be reviewed and if satisfactory, a funding agreement will be initiated

executed by DWR. Failure of the applicant to satisfy all conditions of funding by the deadlines established in its commitment letter may result in loss of funding.

6. Twenty-five percent of the grant funds in Chapter 6(c) will be allocated to disadvantaged communities.

Definitions

1. "Community water system" is defined pursuant to Health and Safety Code (H&SC) Section 116275(i) as a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the water system.
2. "Disadvantaged community" means a community with an annual household income that is less than 80 percent of the statewide annual median household income.
3. "Matching funds" means funds made available by non-state sources, which may include, but are not limited to, donated services from non-state sources. Matching funds for state agencies may include state funds and services except for Proposition 50 funds.
4. "Noncommunity water system" is defined pursuant to H&SC Section 116275(j) as a public water system that is not a community water system.
5. "Nontransient noncommunity water system" is defined pursuant to H&SC Section 116275(k) as a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year.
6. "Public water system" is defined pursuant to H&SC Section 116275(h) as a system for the provision of water that has 15 or more service connections or regularly serves at least 25 individuals at least 60 days out of the year.
7. "Small water system" is defined as a public water system serving less than or equal to with 1,000 service connections or less than or equal to providing service to a population of 3,300 or less population.
8. Local Primacy Agency (LPA) is defined pursuant to H&SC Section 116275(r) as any local health officer that has applied for and received primacy delegation from DHS pursuant to H&SC Section 116330.

General Criteria

1. Proposition 50 grant funds cannot be used for operation and maintenance activities.

2. Applicants cannot receive funds for the same project from other Proposition 50 grant programs.
3. Applicants may be reimbursed for expenses determined to be eligible by the DHS and DWR. Preliminary costs incurred by the applicant after the DHS grant criteria are adopted may be eligible for reimbursement. Preliminary costs may include planning, preliminary engineering, design, environmental documentation, and interim financing. Construction costs, in order to be eligible, must have been incurred after the applicant receives a Letter of Commitment from DWR. Actual reimbursement will occur in arrears and only after the funding agreement is executed.
4. If an applicant is required to prepare an Urban Water Management Plan pursuant to California Water Code Section 10610 *et seq.*, a copy of the plan shall be submitted to DHS prior to issuance of a funding agreement.
5. Eligible project costs are limited to facilities sized to serve no more than the 20-year demand projected in an Urban Water Management Plan or the 20-year demand projected in a comparable public water system planning document. If an applicant does not have an Urban Water Management Plan or comparable document, the eligible project costs are limited to facilities sized to serve no more than ten percent above existing water demand at peak flow.
6. Matching funds are required on a 1-to-1 basis except for disadvantaged communities and small water systems.
7. Water system capital expenses incurred prior to the funding agreement may be used as matching funds. Any fFunds expended prior to October 28, 2003 do not qualify as matching funds.
8. Grants to privately owned public water systems that are regulated by the California Public Utilities Commission (PUC) will be subject to the PUC's review and approval and the PUC's directives and/or general order(s) addressing the water system's use of Proposition 50 funds. Any privately owned water system receiving funding will be prohibited from earning a profit from the use of these funds and achieving financial benefit from the later disposition of assets purchased by these funds regardless of whether or not said assets are a useful part of the water system.
9. For privately owned public water systems that are not regulated by the PUC, DHS and DWR will institute comparable controls and requirements on the use of Proposition 50 funds with regard to assets and return of profit.
10. Construction of the project must start within one year after funding agreement execution, including CEQA compliance. The project shall conclude within three years after funding agreement execution.

11. A review of cost effectiveness of the project will be part of the approval process.
12. Public water systems under the regulatory jurisdiction of DHS include public water systems regulated by Local Primacy Agency (LPA) counties.

Disadvantaged Communities

1. Twenty-five percent of the funds in Chapter 6(c) will be allocated to disadvantaged communities.
2. In order to be eligible for funds set aside for disadvantaged communities, an applicant must be:
 - (a) A public water system whose entire service area meets the definition of a disadvantaged community, OR
 - (b) A public water system applying for a project to physically connect and incorporate by consolidation a separate existing public water system whose entire service area meets the definition of a disadvantaged community, OR
 - (c) A public water system applying on behalf of a community that is part of the public water system's service area, where each census tract in that part of the service area and identified in the project meets the definition of a disadvantaged community.
3. In order to be eligible for funds set aside for disadvantaged communities, the project must benefit only the disadvantaged community identified in the application.
4. DHS and DWR will create a separate Project Priority List for Chapter 6(c) projects for disadvantaged communities. Projects on that list will be prioritized based on 1) the criteria for the grant program; 2) disadvantaged community bonus points for median household income and consolidation; 3) type of system (community systems ranked higher than nontransient noncommunity water systems ranked higher than transient noncommunity water systems); and 4) population with larger population ranked higher.
5. Projects for disadvantaged communities will be awarded bonus points for median household income as follows:

Median Household Income (MHI) Bonus Points	
MHI of Community	Bonus Points
> 80% of statewide MHI	not eligible
= 80% of statewide MHI	0
60% - 79% of statewide MHI	5
40% - 59% of statewide MHI	10
20% - 39% of statewide MHI	15
< 20% of statewide MHI	20

Median household income (MHI) values will be determined for each community seeking the set aside for disadvantaged communities. The MHI values will be truncated to the next whole percent (e.g., 79.851% will be truncated to 79%).

6. Projects for disadvantaged communities that include the physical consolidation of two or more public water systems will be awarded 10 bonus points.
7. Disadvantaged communities are not required to provide matching funds.

Chapter 6: Contaminant Removal Technologies

Proposition 50's Chapter 6 projects relate to contaminant and salt removal technologies. Pursuant to the agreement with DWR, DHS' involvement with Chapter 6 focuses on the technical aspects of the funding programs that address pilot and demonstration projects for certain contaminants [Subpart (b)], and projects related to ultraviolet (UV) and ozone disinfection treatment [Subpart (c)]. Salt removal technologies in Chapter 6 [Subpart (a)] will be handled separately by the DWR.

Subparts (b) and (c) of Chapter 6 are delegated to implemented by DWR and DHS through an Interagency Agreement with DWR, and provide for funding up to \$50 million. Subparts (b) and (c) of Chapter 6 will be allocated up to \$25 million each. DHS, subject to approval of DWR, may transfer funds between the two grant programs if insufficient proposals are submitted for either program.

Subpart (b): Contaminant treatment or removal technology pilot and demonstration studies

Subpart (b) provides funding for pilot and demonstration projects for treatment or removal technology for the following categories of contaminants:

- Petroleum products, such as MTBE (methyl-*tert*-butyl ether) and BTEX (benzene, toluene, ethyl benzene, xylene)
- N-Nitrosodimethylamine (NDMA)
- Perchlorate
- Radionuclides, such as radon, uranium, and radium
- Pesticides and herbicides
- Heavy metals, such as arsenic, mercury, and chromium
- Pharmaceuticals and endocrine disrupters

General Criteria and Information

1. Eligible applicants are public water systems under the regulatory jurisdiction of DHS and other public entities.
2. The minimum grant for a project is \$50,000.

3. The maximum grant for a project is \$5 million.
4. The project must address an existing problem in California.
5. If an applicant desires to continue use of the demonstration facilities after the end of a demonstration project, the applicant is responsible for costs associated with the continued operation and maintenance.
6. Projects will be assigned points in accordance with Table 1. Projects will be ranked based on the number of points assigned to the proposal, with the largest points first. For proposals with the same number of points, demonstration projects will be ranked higher than pilot projects.
7. After the adoption of the project priority list, potentially fundable applicants will be required to submit additional information as specified by DHS.
8. DHS and DWR will use a peer review panel to determine the projects that will be invited for funding.
9. No more than 30% of the funds within Chapter 6(b) will be awarded to address a single contaminant category.
10. All intellectual property rights developed pursuant to this grant program, including but not limited to copyrights, patents, and licenses, shall be the property of the State of California and shall remain in the public domain.

Proposals must address the following:

1. Qualifications of project proponents to undertake such a study.
2. The proposed study must fill an existing knowledge gap and shall. It should not duplicate previous work.
3. The data collection and study protocol must be based on generally accepted scientific principles.
4. The study must address ongoing operation and maintenance issues.
5. The study must involve a public purpose that is of statewide interest and concern.
6. The proposal must include a peer review component. A water system representative from another water system must be a member of the peer review group.
7. The proposal must include a plan for public dissemination of the results, including submission of a report to DHS and DWR within one year of project completion.
8. The study must address affordability and level of operational expertise required to operate the treatment facility.

9. The study must address handling and disposal of residuals (e.g., waste products of the treatment process), if any are present or will be created.
10. Projects dealing with MTBE or other oxygenates shall be referred to the Drinking Water Treatment and Research Fund, to the extent funds are available for research.
11. Demonstration projects must include preparation of an operations and maintenance manual.

**Table 1
Ranking Points
for Section 79545(b) Projects**

Regulatory Status of Contaminant Addressed	Health Risk of Contaminant Addressed	Occurrence in Drinking Water Sources	Population Impacted by Contaminated Sources	No. of Prop 50 Chap. 6 Contaminant Categories Addressed	Pharmaceuticals or Endocrine Disruptors	Small System Technology
Contaminant w/ MCL = 4	Acute effects, developmental effects, or effects from shorter-term exposures = 4	Detected in 1,000 or more sources = 4	1,000,000 or more = 4	7 categories = 6	Addresses Pharmaceuticals = 1	Primarily addresses small water systems = 4
Contaminant w/ PHG, but MCL not yet adopted = 3	Carcinogen by ingestion + effects from chronic, longer term exposures = 3	Detected in 100 or more sources and fewer than 1000 sources = 3	100,000 or more and fewer than 1,000,000 = 3	6 categories = 5	Addresses Endocrine Disruptors = 1	.
Contaminant with Action Level = 2	Carcinogen by ingestion = 2	Detected in more than 5 sources and fewer than 100 sources = 2	10,000 or more and fewer than 100,000 = 2	5 categories = 4	.	.
.	Chronic effects = 1	Detected in 5 or fewer sources = 1	fewer than 10,000 = 1	4 categories = 3	.	.
.	.	.	.	3 categories = 2	.	.

Subpart (c): Drinking water disinfecting projects using UV technology and ozone treatment

Subpart (c) provides for projects using UV or ozone disinfection of drinking water.

General Criteria and Information

1. Eligible applicants are public water systems under the regulatory jurisdiction of DHS.
2. The minimum grant for a project is \$50,000.
3. The maximum grant for a project is \$5 million.
4. Twenty-five percent of the funds will be allocated to disadvantaged communities.
5. Recipients of the grants must meet technical, managerial, and financial capacity requirements.
6. Projects must address an MCL compliance violation, surface water treatment microbial requirements, or other mandatory disinfection required by DHS or local primary agency county.
7. The water system must demonstrate that it can operate and maintain the treatment facilities.
8. Ozone treatment projects shall be designed and operated to minimize residual disinfection byproduct formation from the ozone treatment.

Ranking Criteria

1. UV projects have a higher priority than those projects using ozone. Ozone projects will not be funded until all eligible UV projects have been offered funds.
2. Projects will be ranked in order as follows:
 - a. Projects addressing Total Coliform Rule (TCR) violations caused by fecal contamination OR projects addressing violations of surface water treatment microbial requirements.
 - b. Projects addressing other types of TCR violations.
 - c. Projects addressing disinfection byproduct violations that necessitate a change in disinfectant.
 - d. Projects addressing mandatory disinfection required by DHS or local primary agency county.
3. Within a category, projects will be ranked by population, with the largest population first.

Agenda Item: 13-10G
Meeting Dates: October 13 and 14, 2004

**CALIFORNIA BAY-DELTA AUTHORITY
RESOLUTION 04-10-06**

RECOMMENDING TO THE DEPARTMENT OF HEALTH SERVICES THAT IT PROCEED WITH ITS 2004 PROPOSITION 50 DRINKING WATER CONTAMINANT REDUCTION GRANT PROPOSAL SOLICITATION PACKAGES, CONSISTENT WITH THE STATED PRIORITIES, SOLICITATION AND EVALUATION CRITERIA AND PROCESS, AND SCHEDULE

WHEREAS, The Department of Health Services' Proposition 50 Drinking Water Contaminant Reduction Grant Proposal Solicitation Package (PSP) is expected to fund a significant number of projects that will assist in meeting CALFED drinking water quality goals and objectives; and

WHEREAS, The process and criteria are designed to make maximum use of Proposition 50 bond funds by selecting proposals that are of high quality and consistent with safe drinking water priorities; and

WHEREAS, The process and criteria outlined for this solicitation give focused attention to the safe drinking water needs of disadvantaged communities;

WHEREAS, The process and criteria outlined for this solicitation will direct bond funds to CALFED drinking water quality priorities such as new contaminant reduction technologies and safe drinking water;

WHEREAS, the process and criteria outlined for this solicitation have gone through extensive public review, consistent with the requirements of Proposition 50;

NOW, THEREFORE, BE IT RESOLVED that the California Bay-Delta Authority supports the DHS Proposition 50 Drinking Water Contaminant Reduction Grant proposal solicitation packages, consistent with the stated priorities, solicitation and evaluation criteria and process, and schedule.

CERTIFICATION

The undersigned Assistant to the California Bay-Delta Authority does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the Authority held on October 13 and 14, 2004.

Dated: _____

Heidi Rooks
Assistant to the California Bay-Delta Authority